

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOSE L. MATAMOROS,

Petitioner,

v.

Case No. 08-cv-704-pp

GREGORY GRAMS,

Respondent.

**ORDER DENYING WITH PREJUDICE PETITIONER'S LETTER MOTION FOR
AN ORDER FOR RELIEF FROM FEDERAL DETAINER (DKT. NO. 35)**

On August 20, 2008, petitioner Jose L. Matamoros filed a petition under 28 U.S.C. §§2241 and 2255, asking Judge Charles N. Clevert, Jr. to invalidate a federal detainer relating to a 2005 parole violation warrant. Dkt. No. 1. Judge Clevert appointed counsel and ordered the respondent to file an answer. Dkt. No. 5. After concluding that the petitioner could seek relief under §2241, Judge Clevert denied the petition, finding that the petitioner had not raised a constitutional issue supporting his request for relief. Dkt. No. 18. The petitioner filed a direct appeal, and the Seventh Circuit affirmed on January 29, 2013. Dkt. No 32 at 3.

On May 10, 2018, the court received a letter from the petitioner, addressed to Judge Clevert. Dkt. No. 35. Because Judge Clevert has retired, the clerk's office reassigned the case to this court and docketed the letter as a

motion. The next day, the government filed a response to the letter motion. Dkt. No. 36. The court will deny the petitioner's request.

The petitioner attached a copy of the detainer from which he seeks relief. Dkt. No 35-1 at 1. The detainer was placed by the United States Marshal's Service, based on a parole violation warrant. The detainer informs the petitioner that he can seek review of the detainer (issued by the U.S. Parole Commission) by providing the Parole Commission with any information he would like them to consider. Id.

The local rules of this district require a party to identify a statute or rule that would allow him to obtain the relief he seeks. Civil L.R. 7(a) (E.D. Wis.). The petitioner's letter does not mention any statute or rule that would allow the court to lift the detainer imposed by the Parole Commission. Instead, he explains that he has served thirteen years on his fifteen-year sentence and would be eligible for community custody work release if he did not have the detainer. Id. at 1. According to the petitioner, he has tried "every avenue possible," and the Parole Commission continues to refuse to lift the detainer or respond to his hearing requests. Dkt. No. 35 at 1.

In his March 31, 2012, order, Judge Clevert explained to the petitioner that the court could not grant him relief under 28 U.S.C. §2255, because his petition did not attack the validity of his conviction or sentence. Dkt. No. 18 at 8. Judge Clevert did analyze the petitioner's claim under 28 U.S.C. §2241, and concluded that the detainer was not unconstitutional or in violation of the laws of the United States. Id. at 13-19. The petitioner appealed Judge Clevert's

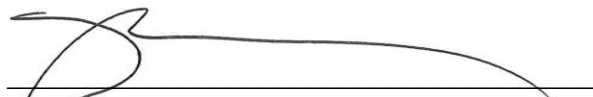
decision; the Seventh Circuit Court of Appeals affirmed Judge Clevert, and noted that because the petitioner was in state custody, the Parole Commission had no obligation to take any action with respect to the detainer until the petitioner is released. Matamoros v. Grams, 706 F.3d 783, 793 (7th Cir. 2013). The petitioner notes in his recent letter request that he is still in custody. Dkt. No. 35 at 1.

Judge Clevert has ruled on the issue the petitioner raises in his May 2018 letter motion. The Seventh Circuit has affirmed that ruling. That means that Judge Clevert's ruling is the "law of the case." Schneider v. United States, 863 F.3d 518, 523 (7th Cir. 2017) (citing Peoples v. United States, 403 F.3d 844, 849 (7th Cir. 2005)). Now, through this May 2018 letter, the plaintiff has filed what amounts to a second, or successive, petition, even though the law has not changed and no new facts have come to light. The law does not allow such a second or successive writ, unless the petitioner has obtained permission from the Seventh Circuit to file it. Arnaout v. Marberry, 351 F. App'x 143, 144 (7th Cir. 2009).

The court **DENIES WITH PREJUDICE** the petitioner's letter request seeking relief from his federal detainer. Dkt. No. 35.

Dated in Milwaukee, Wisconsin this 8th day of June, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge